

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

Crl.Rev.Pet.No. 3599 of 2007()

**CC.36/2007 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT,
TRIVANDRUM**

REVN. PETITIONER: COMPLAINANT:

**P.N. SREEKANTAN NAIR,
KAILAS, THAKARAPARAMBU ROAD, FORT (P.O),
THIRUVANANTHAPURAM.**

BY ADV. SRI.GOPAKUMAR R.THALIYAL

RESPONDENTS: ACCUSED & STATE:

**1. V. AMBIKA,
JUNIOR SUPERINTENDNET, HANTEX HEAD OFFICE,
G.P.O., THIRUVANANTHAPURAM.**

**2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 11/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

V. RAMKUMAR, J.

.....
Cri. R.P. No. 3599 OF 2007
.....

Dated this the 11th day of October, 2007

O R D E R

The revision petitioner is the complainant in C.C.No.36/07 on the file of Additional CJM, Thiruvananthapuram for an offence punishable under section 138 of the Negotiable Instruments Act, 1881. On 18.8.07 when the case was called the revision petitioner as well as his counsel were absent. The complaint was, therefore, dismissed under section 204(4) Cr.P.C. also for the reason that no steps had been taken by the complainant for issuing warrant against the revision petitioner.

2. According to the revision petitioner, his counsel had committed a mistake in noting the date of posting of the case and that was why both the complainant as well as his counsel were absent on that day. It is his case that he would have taken steps before the date noted by the counsel was reached. Such being the case, I see no justification on the part of the Magistrate in dismissing the complaint on the

inference that complainant is not interested in proceeding with the case. The cheque in question is for a sum of Rs.1,00,000/-.

3. In as much as the dismissal of the complaint was before the appearance of the accused, notice to the 1st respondent accused is dispensed with.

4. For the reasons stated above, the impugned order dated 18.8.07 is set aside and C.C.No.36/07 is restored to file. The revision petitioner/complainant shall appear before the court below without any further notice on 5.11.07 by which time he would have taken the necessary steps for effecting process on the accused.

This revision is allowed as above.

(V. RAMKUMAR, JUDGE)

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